

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

Robert Michael Hernandez,  
Petitioner

V.

Jo Gentry, et al.,  
Responder

2:17-cv-02565-JAD-CWH  
**Order Dismissing Case**

10 Petitioner Robert Michael Hernandez is serving two consecutive sentences of  
11 6–15 years and 6–20 years after he was convicted of robbery against a person over  
12 the age of 60.<sup>1</sup> He has submitted a petition for writ of habeas corpus under 28  
13 U.S.C. § 2254,<sup>2</sup> but he did not file an application to proceed *in forma pauperis* or pay  
14 the filing fee. As a result, this matter has not been properly commenced.<sup>3</sup>

15 This action will therefore be dismissed without prejudice to Hernandez's  
16 ability to refile it on the required form in a **new action** with either the \$5.00 filing  
17 fee or a completed application to proceed *in forma pauperis*. The pauper application  
18 must also be submitted on the proper form with both an inmate account statement  
19 for the past six months and a properly executed financial certificate.

20           Accordingly, IT IS HEREBY ORDERED that this action is **DISMISSED**  
21 without prejudice to the filing of a petition in a new action with either the \$5.00  
22 filing fee or a properly completed application form to proceed *in forma pauperis*.

23 IT IS FURTHER ORDERED that a certificate of appealability is DENIED.

<sup>1</sup> ECF No. 1-1 at 2.

2 ECF No. 1.

<sup>3</sup> 28 U.S.C. § 1915(a)(2); LSR1-1, 1-2.

because jurists of reason would not find my dismissal of this improperly commenced action without prejudice to be debatable or incorrect.

The Clerk of Court is directed to SEND to Hernandez two copies each of an application form to proceed *in forma pauperis* for incarcerated persons and a noncapital § 2254 habeas petition form, one copy of the instructions for each form, and a copy of the papers that he submitted in this action.

**The Clerk of Court is directed to ENTER JUDGMENT accordingly and CLOSE THIS CASE.**

DATED: October 26, 2017.

  
Jennifer A. Dorsey  
United States District Judge